

REMARKS

The present Amendment is in response to the Examiner's Office Action mailed December 13, 2006. Claims 4-6, 17, and 19-20 are cancelled, claims 1, 7, and 16 are amended, and claims 21-22 are added. Claims 1-3, 7-16, 18, and 21-22 are now pending in view of the above amendments.

Reconsideration of the application is respectfully requested in view of the above amendments to the claims and the following remarks. For the Examiner's convenience and reference, Applicant's remarks are presented in the order in which the corresponding issues were raised in the Office Action.

I. General Considerations

Applicant notes that the remarks and amendments presented herein have been made merely to clarify the claimed embodiments from elements purported by the Office Action to be taught by the cited references. Such remarks, or a lack of remarks, and amendments are not intended to constitute, and should not be construed as, an acquiescence, on the part of the Applicants: as to the purported teachings or prior art status of the cited references; as to the characterization of the cited references advanced by the Office Action; as to whether it is proper to combine any cited references; or as to any other assertions, allegations or characterizations made by the Office Action at any time in this case. Applicants reserve the right to challenge the purported teaching and prior art status of the cited references, as well as whether it is proper to combine the cited references, at any appropriate time.

In addition, the remarks herein do not constitute, nor are they intended to be, an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed herein are presented solely by way of example. Consistent with the foregoing, the discussion herein is not intended, and should not be construed, to prejudice or foreclose contemporaneous or future consideration, by the Applicants, of additional or alternative distinctions between the claims of the present application and the references cited by the Office Action, and/or the merits of additional or alternative arguments.

II. Allowed Subject Matter

The Examiner has indicated that claims 4-7 and 17 would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, Applicants have rewritten independent claim 1 so as to include all of the limitations of originally filed claim 4. In particular, the scope of amended claim 1 (i.e., the scope of originally filed claim 4) has not been narrowed in any way so as to overcome any prior art, but has merely been rewritten to include the limitations of originally filed claim 4. As acknowledged by the Examiner, amended claim 1 is patentably distinct from the prior art, and is now in a condition for allowance. Moreover, for at least the same reason, claims now depending from claim 1 – namely, claims 2-3 and 7-15 – are also in a condition for allowance. Please note that an amendment has been made to claim 7 to insure correct antecedent basis due to the amendment of claim 1 and cancellation of claim 4. Accordingly, the scope of this claim has not been narrowed in any way so as to overcome any prior art.

Similarly, independent claim 16 has been rewritten so as to incorporate all of the limitations of originally filed claim 17. In particular, the scope of amended claim 16 (i.e., the scope of originally filed claim 17) has not been narrowed in any way so as to overcome any prior art, but has merely been rewritten to include the limitations of originally filed claim 17. As acknowledged by the Examiner, amended claim 16 is patentably distinct from the prior art, and is now in a condition for allowance. Further, for at least the same reason as stated by the Examiner, claims depending from claim 16– namely, claim 18– are also in a condition for allowance.

In addition, a new claim 21 has been added that incorporates all of the limitations of the originally filed claim 5. In particular, the scope of new claim 21 (i.e., the scope of originally filed claim 5) has not been narrowed in any way so as to overcome any prior art, but has merely been written to include the limitations of originally filed claim 5. As acknowledged by the Examiner, new claim 21 is patentably distinct from the prior art, and is now in a condition for allowance. Further, for at least the same reason as stated by the Examiner, claims depending from claim 21– namely, claim 22– are also in a condition for allowance. Please note that new claim 22 is the same as originally filed claim 6.

In summary, claims 1-3, 5-16, 18, and 21-22 are now pending in view of the above amendments, and all are patentably distinct from the prior art. Allowance of each of these claims is respectfully requested.

III. Rejection Under 35 U.S.C. §102(e)

The Examiner rejects claims 1-3, 8-16, and 18-20 under 35 U.S.C. § 102(e)¹ as being anticipated by United States Patent Publication No. 2004/0062491 to Sato et al. As noted above, Applicant has amended independent claims 1 and 16 to include the limitations of originally filed dependent claims 4 and 17 respectively. Therefore, the anticipation rejection for these claims and the claims depending from them should be withdrawn.

Applicant also notes that the cancellation of claim 19 renders the anticipation rejection of claims 19 and 20 moot and therefore asks that this rejection be withdrawn.

¹ Because Sato is only citable under 35 U.S.C. § 102(e) Applicant does not admit that Sato is in fact prior art to the claimed invention but reserve the right to swear behind Sato if necessary to remove it as a reference.

CONCLUSION

In view of the foregoing, Applicant believes that he has addressed every issue raised in the Office Action and has put the claims in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 10th day of May, 2007.

Respectfully submitted,



ERIC L. MASCHOFF
Registration No. 36,596
SHANE K. JENSEN
Registration No. 55,301
Attorneys for Applicant
Customer No. 022913
Telephone: (801) 533-9800

W:\16274\175\ML0000005371V001.doc